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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/055,870
Filing Date: January 21, 2002
Appellant(s): SAUCIER ET AL.

Daniel R. Brownstone
Reg. No.: 46,581

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/15/2008 appealing from the Office action mailed 3/27/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Radjy et al. (US 2002/0010525 A1)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-77 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radjy et al. (US 2002/0010525 A1).**

3. As per **independent Claims 1 and 84**, Radjy discloses a method [system] for facilitating transactions between a product brand manager (Equivalent to contractor/AEC with concrete specification) and manufacturing organizations using a transactional computer system (Para 0129-0132), the method comprising: receiving at the transactional computer system product brand information from the product brand manager, the product brand information including

information for manufacturing a product brand (Para 0129-0130, AEC Drafts and submits concrete specification); receiving at the transactional computer system from each of the manufacturing organizations information about the manufacturing process capabilities of the manufacturing organization (Para 0130, data repositories); determining from the received product brand information and the received information about the manufacturing process capabilities of the manufacturing organizations a set of candidate manufacturing organizations for the product brand; and providing information about the set of candidate manufacturing organizations to the product brand manager (Para 0129-0130, AEC finds manufacturer which matches needed specification, based on saved capability information regarding manufacturers).

4. Radjy fails to expressly disclose wherein the determination made without providing the product brand information to the manufacturing organizations ***or*** the manufacturing process capabilities to the product brand manager (computer automated matching system).
5. However, Radjy does disclose a process for saving manufacturer capabilities in a database, and saving project specification needs for an AEC in a database. The system further discloses wherein the AEC can use the saved information to find a manufactures based on specified needs (Para 0058, Para 0130, Para 0132).
6. Furthermore, It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of matching the AEC with a manufacturer based upon saved information from the manufacturer and the AEC gives you just what you

would expect from the manual step disclosed by Radjy (Para 0130). In other words there is no enhancement found in the claimed step. The claimed matching step only provides automating the manual activity. The end result is the same as compared to the manual method. A computer can simply iterate the steps faster. The result is the same.

7. It would have been obvious to a person of ordinary still in the art at the time of the invention to automate the matching step because this would speed up the process of matching designers (AEC) with manufacturers, which is purely known, and an expected result from automation of what is known in the art.
8. Finally, Radjy also discloses the use of automated matching technology when matching a specific manufacturer's product with needed specifications (Para 0132).
9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a similar matching technology to compare saved information regarding AEC needed specifications with saved information regarding manufacturers' capabilities.

(10) Response to Argument

1. The Appellant has made the argument that the prior art fails to teach or describe the claimed method/systematic step of: wherein the determination (matching of product brand managers and manufacturing organizations) is made without providing the product brand information to the manufacturing organizations ***OR*** the manufacturing process capabilities to the product brand manager (computer automated matching system).

2. However, Radjy does disclose a process for saving manufacturer capabilities in a database, and saving project specification needs for an AEC in a database. The system further discloses wherein the AEC can use the saved information to find a manufactures based on specified needs (Para 0058, Para 0130, Para 0132, AEC can find or match up with a manufacturing organization without disclosing product brand information).
3. Furthermore, It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of matching the AEC with a manufacturer based upon saved information from the manufacturer and the AEC gives you just what you would expect from the manual step disclosed by Radjy (Para 0130). In other words there is no enhancement found in the claimed step. The claimed matching step only provides automating the manual activity. The end result is the same as compared to the manual method. A computer can simply iterate the steps faster. The result is the same.
4. It would have been obvious to a person of ordinary still in the art at the time of the invention to automate the matching step because this would speed up the process of matching designers (AEC) with manufacturers, which is purely known, and an expected result from automation of what is known in the art.
5. Finally, Radjy also discloses the use of automated matching technology when matching a specific manufacturer's product with needed specifications (Para 0132).

6. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a similar matching technology to compare saved information regarding AEC needed specifications with saved information regarding manufacturers' capabilities.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jonathan Ouellette/

Primary Examiner, Art Unit 3629

June 23, 2008

Conferees:

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